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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/859,665	05/18/2001	Robert Cosmo Di Luccio	KCC-15,512	3343
35844	7590	09/22/2004	EXAMINER	
PAULEY PETERSEN & ERICKSON 2800 WEST HIGGINS ROAD HOFFMAN ESTATES, IL 60195			ANDERSON, CATHARINE L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/859,665

Applicant(s)

LUCCIO ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-29, 31, 46-48 and 50 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-12, 14-26, 32-34, 36-41 and 44 is/are rejected.
- 7) ☒ Claim(s) 13, 42 and 45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent-Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 12, 15, 21, 23, 32, 36, and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Potts et al. (6,350,711).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

With respect to claims 1, 15, and 32, Potts discloses a method for treating a viscoelastic fluid comprising the steps of treating at least a portion of an absorbent article comprising a nonwoven web with a treatment chemistry and

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contacting the article with the viscoelastic fluid, as described in column 1, lines 6-15. The treatment chemistry is an agglutinating agent or a lysing agent, as disclosed in column 2, lines 52-67.

With respect to claims 2 and 21, the viscoelastic fluid is menses, as disclosed in column 1, line 39.

With respect to claims 12, 23, and 37, the nonwoven web is spunbonded, meltblown, or carded, as disclosed in column 5, line 58 to column 6, line 24.

With respect to claim 36, the treatment chemistry is disposed within a plurality of polymeric fibers, as disclosed in column 8, lines 15-20.

Claims 1-3, 5-6, 8-10, 14-16, 18-19, 21-23, 32, 36-37, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Baer et al. (5,728,081).

Baer discloses a method for treating a viscoelastic fluid comprising the steps of treating at least a portion of an absorbent article with a treatment chemistry, as described in column 3, lines 48-65. The absorbent article is contacted with viscoelastic fluids, as disclosed in column 1, lines 28-31. The treatment chemistry is a lysing agent, sulfosuccinate, as disclosed in column 3, line 64.

With respect to claim 2, the absorbent article is a sanitary napkin, and therefore the viscoelastic fluids are menses.

With respect to claim 3, the treatment chemistry is dried, and therefore is in the form of a solid particle, as disclosed in column 3, line 60.

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With respect to claim 5, the article comprises a cover sheet 12, a backsheet 16, and an absorbent layer 14, the treatment chemistry being disposed on the cover sheet 12, as disclosed in column 3, lines 11-15.

With respect to claim 6, the treatment chemistry is disposed in the cover sheet 12 which is located along a periphery of the absorbent layer 14, as shown in figure 1.

With respect to claims 8-9, the cover sheet 12 comprises a nonwoven web material having a plurality of polymeric fibers, the treatment chemistry being disposed in the plurality of fibers, as disclosed in column 3, lines 11-19.

With respect to claim 10, the treatment chemistry is dispersed within the cover sheet 12, forming a gradient within the absorbent article.

With respect to claim 14, the nonwoven web material is a laminate comprising layers 10 and 12, as shown in figure 1.

With respect to claims 15, 32, and 36, the article comprises a nonwoven web material 12, and the treatment chemistry is dispersed within the nonwoven web, as disclosed in column 3, lines 11-15.

With respect to claim 16, the treatment chemistry is dried, and therefore is in the form of a solid particle, as disclosed in column 3, line 60.

With respect to claims 18 and 38, the nonwoven web material comprises a plurality of layers 10 and 12, as shown in figure 1.

With respect to claim 19, the treatment chemistry is dispersed on less than all of the layers, being only dispersed on layer 12.

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With respect to claim 21, the nonwoven web is part of a sanitary napkin, and therefore the viscoelastic fluids are menses.

With respect to claim 22, the treatment chemistry is disposed within an interior of the nonwoven web, and is therefore disposed within an interior of at least a portion of the fibers.

With respect to claims 23 and 37, the nonwoven web material is bonded carded, as disclosed in column 3, lines 15-19.

With respect to claim 41, the treatment chemistry is coated on the nonwoven web, and therefore is disposed on the surface of at least a portion of the fibers.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 11-12, 15-21, 24-26, 32-34, 36, 38-41, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorigatti et al. (5,658,582).

With respect to claims 1 and 15, Dorigatti discloses all aspects of the claimed invention but does not define the invention in the form of a method for treating viscoelastic fluids. Dorigatti discloses treating a portion of an absorbent article comprising a nonwoven web with a treatment chemistry, the treatment

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chemistry being a gelling agent, as described in column 2, line 58 to column 3, line 8.

Dorigatti discloses the nonwoven web is to be used in direct contact with the skin during use as a sanitary or surgical article during surgery, as described in column 2, lines 15-17. The nonwoven web is designed to be absorbent, as disclosed in column 1, lines 62-65. It would therefore be obvious to one of ordinary skill in the art at the time of invention to contact the nonwoven web with viscoelastic fluids such as blood during use of the nonwoven web during surgical procedures.

With respect to claims 2 and 21, the nonwoven web may be used in sanitary articles, as disclosed in column 2, line 16, and therefore will come in contact with menses.

With respect to claims 3 and 16, the treatment chemistry is in the form of fibers, as disclosed in column 2, lines 62-64, which are solid particles.

With respect to claims 4 and 17, the treatment chemistry is uniformly dispersed on the nonwoven web, and are therefore dispersed in the interior of the web.

With respect to claim 5, the article comprises multiple layers, as disclosed in column 2, lines 50-51, which function as a cover, a backsheet, and absorbent layers.

With respect to claim 6, the treatment chemistry is disposed in, and therefore along a periphery of, an absorbent layer.

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With respect to claim 11, the treatment chemistry comprises a gelling agent, as disclosed in column 2, line 58 to column 3, line 8, and the absorbent layer comprises superabsorbent, as disclosed in column 3, lines 18-28.

With respect to claim 12, the nonwoven web is a fibrous web, as disclosed in column 2, lines 58-64.

With respect to claim 18, the nonwoven web comprises a plurality of layers, as disclosed in column 2, lines 50-51.

With respect to claim 19, the treatment chemistry is dispersed on less than all of the layers, as disclosed in column 1, lines 44-56.

With respect to claims 24-26 and 32-34, the treatment chemistry comprises the water-soluble gelling agent polyglycan, as disclosed in column 3, line 8, and a superabsorbent, as disclosed in column 3, lines 50-61.

With respect to claim 36 and 41, the treatment chemistry is disposed within a plurality of polymeric fibers comprising the nonwoven material, as disclosed in column 2, lines 58-64. The treatment chemistry is in contact with surfaces of the fibers, and therefore is disposed on a surface of at least a plurality of the fibers.

With respect to claim 38, the nonwoven web comprises a plurality of layers, as disclosed in column 2, lines 50-51.

With respect to claim 39, the treatment chemistry is dispersed on at least one of but less than all of the layers, as disclosed in column 1, lines 44-56.

With respect to claim 44, the treatment chemistry is applied throughout the absorbent layer, as disclosed in column 4, example 1.

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With respect to claims 4, 17, 20, and 40, Dorigatti discloses all aspects of the claimed invention but remains silent as to the uniform or non-homogeneously dispersion of the treatment chemistry. It would have been an obvious matter of design choice to disperse the treatment chemistry uniformly or non-homogeneously within the nonwoven web material, since the applicant has not shown that either way serves any particular purpose or solves any stated problem, and it appears the invention would perform equally well either way.

Claims 4, 17, 20, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baer et al. (5,728,081).

Baer discloses all aspects of the claimed invention but remains silent as to the uniform or non-homogeneously dispersion of the treatment chemistry. It would have been an obvious matter of design choice to disperse the treatment chemistry uniformly or non-homogeneously within the nonwoven web material, since the applicant has not shown that either way serves any particular purpose or solves any stated problem, and it appears the invention would perform equally well either way.

***Allowable Subject Matter***

Claims 27-29, 31, 46-48, and 50 are allowed.

Claims 13, 42, and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The indicated allowability of claim 26 is withdrawn in view of the newly discovered reference(s) to Dorigatti et al. Rejections based on the newly cited reference(s) follow.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-50 have been considered but are moot in view of the new ground(s) of rejection.

In response to the applicant's argument that a method or process claim is directly infringed only when the process is performed, it is noted that the two steps disclosed in the instant claim, treating the article and contacting the article with fluid, are disclosed in the prior art. The altering of at least one property of the fluid during an interaction between the treatment chemistry and the fluid will inherently occur when the article is contacted by liquid.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (703) 308-1412. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

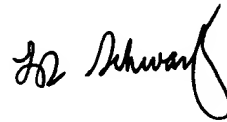
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*cla*

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September 19, 2004



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